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No. 79-1752

In the Supreme Court of the United States

OCTOBER TERM, 1979

JANICE ADAMS, ET AL., PETITIONERS

v.

UNITED STATES OF AMERICA, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

BRIEF FOR THE UNITED STATES IN OPPOSITION

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QUESTIONS PRESENTED

1. Whether the court of appeals erred in holding that the St. Louis Board of Education failed to dismantle the racially dual school system that had been established by state law until 1954.

2. Whether the court of appeals erred in failing to order the district court to devise an inter-district desegregation remedy.

3. Whether the courts below erred in holding that petitioners' complaint in intervention was moot in light of changed circumstances arising after the conclusion of trial but before issuance of the district court's decision.

4. Whether the court of appeals erred in applying The Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988) to deny attorney's fees to petitioners and to award such fees to prevailing parties that requested them.

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OPINIONS BELOW

The opinion of the court of appeals (Pet. App. A241–A291) is not yet reported. The opinion of the district court (Pet. App. A41–A240) is reported at 469 F. Supp. 1304.

JURISDICTION

The judgment of the court of appeals was entered on March 3, 1980. The petition for a writ of certiorari was filed on May 5, 1980. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

In 1972, plaintiffs ("Liddell, et al."), a group of black parents and their minor children who attended the public schools of the City of St. Louis, Missouri, commenced this class action alleging unlawful racial segregation in the operation of the St. Louis public schools. The complaint named as defendants the St. Louis Board of Education, members of the Board, and the superintendent and district superintendents of the school system (Pet. App. A45, A245).

On December 24, 1975, the district court approved a consent judgment and decree (Pet. App. A217–A221) that generally prohibited the defendants from discriminating on account of race and required them to take affirmative action to establish racially nonsegregated and nondiscriminatory schools. Six black pupils ("Caldwell, et al."), through their parents and next friends, and the St. Louis Chapter of the NAACP filed objections to the consent decree and sought to intervene. The court denied the motion for intervention

(Pet. App. A47–A49, A245–A246), but the court of appeals reversed. *Liddell* v. *Caldwell*, 546 F.2d 768, 771–772 (8th Cir. 1976), cert. denied, 433 U.S. 914 (1977).[1] Thereafter, petitioners (a group of white parents), Puelo, et al. (a second group of white parents), and the City of St. Louis intervened as plaintiffs.[2] The United States was also allowed to intervene as a plaintiff. In addition, the State of Missouri, the Commissioner of Education of the State of Missouri, and the State of Missouri Board of Education were added as defendants (Pet. App. A50, A52, A249).

In February and March of 1977, the School Board, in accordance with the consent decree, submitted its desegregation plan to the district court. In May 1977, the Liddell group, the NAACP, and the United States submitted separate alternate plans for desegregation under the consent decree. Finding that the only area of agreement among all parties was the magnet school program, the district court in July 1977 approved implementation of that aspect of the Board's plan (Pet. App. A50–A51, A248). In addition, in light of the recent decisions in *Milliken* v. *Bradley*, 433 U.S. 267 (1977), and *Dayton Board of Education* v. *Brinkman*, 433 U.S. 406 (1977), the district court scheduled a trial "to determine the following: whether there has been any constitutional violation on the part of defendants,

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[1] The court of appeals also concluded that implementation of plans for a unitary school system should not be delayed beyond the commencement of the 1977–1978 school term (546 F.2d at 774).

[2] Although denominated plaintiff-intervenors, petitioners, the Puelo group, and the City of St. Louis have interests closely aligned with those of the defendants.

and, if so, what is its nature and extent. If a constitutional violation were found, the [c]ourt would consider implementing remedies, matching the extent and scope of any remedies found necessary to the extent and scope of any violation which may be found" (Pet. App. A52).

Following a bench trial on these issues, the district court rendered its decision on April 12, 1979. *Liddell* v. *Board of Education of the City of St. Louis*, 469 F. Supp. 1304 (E.D. Mo. 1979) (Pet. App. A41–A240). The court held that the Board had satisfied its duty to dismantle the dual school system that existed by law at the time of *Brown* v. *Board of Education of Topeka*, 347 U.S. 483 (1954), and that the subsequent resegregation of the St. Louis school system beginning in approximately 1962 and continuing to the present was not attributable to the Board but instead was due to various socio-demographic changes (Pet. App. A67–A69, A83, A88, A91, A157, A163–A164, A223). The court also ruled that petitioners' complaint in intervention, which alleged that the policies of the Department of Health, Education, and Welfare with respect to the magnet schools had discriminated against white students who did not attend public schools, was moot in light of an intervening change in policy (*id.* at A142–A143, A223–A224). Finally, the court denied all requests for attorney's fees and ordered that each party bear its own costs (*id.* at A171, A223).

The court of appeals, sitting en banc, reversed in part and affirmed in part. The court held that the district court was in error in determining that the defendants by 1956 had fulfilled their "'affirmative duty

to take whatever steps might be necessary to convert [from a dual] to a unitary system in which racial discrimination would be eliminated root and branch'" (Pet. App. A254, quoting *Green* v. *School Board of New Kent County*, 391 U.S. 430, 437–438 (1968)); that the Board's actions since 1956 regarding "student assignment * * * [,] intact busing, school site selection, block busing, permissive transfers, and faculty assignments" had "maintained and strengthened" the dual school system (Pet. App. A258); and that the continued segregation of the St. Louis public schools, while "intensified" by socio-demographic factors over which the Board had no control, was not substantially caused by such factors (*id.* at A265–A266). For these reasons, the court of appeals concluded, after "[a] careful review of the record and the controlling law * * * [,] that the district court was clearly in error as to the constitutional requirements imposed on defendants who have formerly discriminated pursuant to state law * * * [and] in its evaluation of the extent to which the defendants have met those requirements" (*id.* at 254). Accordingly, the court ordered the Board to develop a comprehensive, system-wide integration plan to be implemented no later than the beginning of the 1980–1981 school year (*id.* at A272). In addition, the court of appeals affirmed the district court's determination that petitioners' complaint in intervention was moot (*id.* at A278 n.7). Finally, based on these holdings, the court of appeals affirmed the denial of attorney's fees to petitioners and remanded for an award of attorney's fees to the prevailing plaintiffs who had requested such fees (*id.* at A276).

On May 8, 1980, Mr. Justice Blackmun denied petitioners' motion for a stay of the judgment of the court of appeals. Petitioners' renewed application for a stay, addressed to Mr. Justice Rehnquist and referred to the Court, was denied on May 19, 1980.

ARGUMENT

1. Petitioners contend (Pet. 17–27) that the court of appeals erroneously held that the Board of Education had failed to meet its affirmative obligation to dismantle the dual school system that existed under state law in 1954. This issue involves only the application of established legal standards to the specific facts of this litigation, and it was, in any event, correctly decided by the court of appeals. Accordingly, further review is unwarranted.

This case turns on the narrow issue whether the dual school system extant in 1954 was disestablished by the Board's desegregation plan for 1954–1956. As the court of appeals explained, "[i]f the Board had dealt with the problem in 1954–1956 and had implemented a plan for integrating the schools in North and South St. Louis, we would have a different case today. We would have to examine the question from an entirely different point of view. See *Pasadena City Board of Education* v. *Spangler*, 427 U.S. 424 (1976). But it did not * * *" (Pet. App. A265; see also *id.* at A282 n. 14). This fact-bound issue depends on the particular record in the instant litigation, raises no legal question of general or recurring public significance, and does not create a conflict in the circuits. See, *e.g.*, *Rudolph* v. *United States*, 370 U.S. 269, 270 (1962);

Rice v. *Sioux City Cemetery*, 349 U.S. 70, 79 (1955); *Magnum Co.* v. *Coty*, 262 U.S. 159, 163 (1923).

Moreover, the court of appeals correctly concluded that the 1954 dual school system had not been disestablished. Although this inquiry is made more difficult by the fact that the Board kept no records concerning race between 1954 and 1962 (Pet. App. A65, A226 n. 5), the court of appeals, based on "[a] careful review of the record" (*id.* at A254), properly determined that the defendants had not fulfilled their "'affirmative duty to convert to a unitary system in which racial discrimination would be eliminated root and branch'" (*ibid.*, quoting *Green* v. *School Board of New Kent County*, 391 U.S. 430, 437–438 (1968)). See also *Dayton Board of Education* v. *Brinkman*, 443 U.S. 526, 538 (1979); *Columbus Board of Education* v. *Penick*, 443 U.S. 449, 458–460 (1979). And the burden of demonstrating "clear[ly] that state-imposed segregation has been completely removed" (*Green*, *supra*, 391 U.S. at 439) rested upon the Board (*Brinkman*, *supra*, 443 U.S. at 537).

Applying these settled principles to the facts of this case, the court of appeals found that the dual school system had not been eliminated. For example, the Board's own documents disclosed that the 1954 desegregation plan drew the school attendance zones in such a way as to "'relocate the smallest possible number of pupils'" (Pet. App. A256), and the attendance zones were drawn to correspond to the racially identifiable residential neighborhoods in St. Louis (*id.* at A256–A257, A279–A280 n.11). As a consequence, the plan was expected to result in an all-white student

population in one-half of the white elementary schools, an all-black student population in two-thirds of the black elementary schools, and populations of black students ranging from 82% to 99% in the remaining black elementary schools (*id.* at A251–A252). A similar situation was presented in the high schools (*id.* at A252). This segregative pattern of student populations continued to exist in 1962, when the Board again began to maintain records on the racial composition of schools (*id.* A252–A253). In addition, the plan was designed to have the least possible impact on segregated personnel assignments in 1954–1956 (*id.* at A256), and this pattern of faculty assignments was still in place in 1962 (*id.* at A253, A263). Finally, the segregated nature of the public schools has persisted to the present (*id.* at A218, A253–A254, A265).

In light of this and other evidence, the court of appeals concluded (Pet.App. A251; footnote omitted):

> The record in the present case clearly establishes that the St. Louis Board of Education's 1954–1956 "neighborhood school plan" had very little, if any, effect on the existing dual school system in the City. The new plan resulted in most of the student population continuing to attend one-race or virtually one-race schools. Although there are few exact figures for the period immediately following implementation of the plan because the Board of Education kept no records of school racial composition from 1955 to 1962, all the available data demonstrates that little desegregation actually occurred in 1954–1956.

In these circumstances, the court of appeals correctly relied on the decisions of this Court to hold that "merely establishing a racially neutral school assign-

ment system is not sufficient to eliminate the constitutional violation caused by past intentional discrimination" (*id.* at A254). See also *Brinkman*, *supra*, 443 U.S. at 538; *Penick*, *supra*, 443 U.S. at 458–460. While other factors beyond the Board's control undoubtedly affected the school system, the court of appeals correctly attributed to the Board the principal responsibility for maintaining and strengthening the segregated public schools in St. Louis.[3]

2. Petitioner contends (Pet. 27–30) that the court of appeals incorrectly failed to order an inter-district remedy that would encompass the non-party suburban school districts outside St. Louis as well as the school district of the City of St. Louis.

Petitioner's contention rests on a misunderstanding of the record. First, while the court of appeals did de-

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[3] Contrary to petitioner's assertion (Pet. 25), the decision below does not conflict with *Pasadena City Board of Education* v. *Spangler*, 427 U.S. 424 (1976). In that case, an intervening "racially neutral system of student assignment" had previously been adopted by the district court (*id.* at 434–435). In those circumstances, this Court held that the district court had exceeded its authority by requiring annual readjustment of attendance zones in order to ensure that there would not be a majority of any minority group in any public school. In contrast, the instant case does not present a situation in which " 'the affirmative duty to desegregate has been accomplished and racial discrimination through official action is eliminated from the system' " (*id.* at 436, quoting *Swann* v. *Charlotte-Mecklenberg Board of Education*, 402 U.S. 1, 31–32 (1971)).

Nor, notwithstanding petitioner's suggestion (Pet. 23), did the court of appeals fail to accord due regard to the district court's findings of fact. Rather, the court of appeals carefully reviewed those findings and concluded that they were clearly erroneous (Pet. App. A261, A281–A282 n.14). See *Brinkman*, *supra*, 443 U.S. at 534–535 n.8.

termine that "some suburban communities in Missouri continue to try to enforce discriminatory housing restrictions against blacks" (Pet. App. A284 n.21) and that "St. Louis County suburban school districts, pursuant to state law prior to *Brown*, collaborated with each other and with the City of St. Louis to ensure the maintenance of segregated schools" (*id.* at A289 n.27), the court nowhere determined that there existed an inter-district violation, and its opinion makes evident that these observations about suburban housing patterns and pre-*Brown* school segregation did not rise to the same level of significance as the persistent segregative efforts of the St. Louis Board of Education. In any event, the court of appeals expressly left open, on remand to the district court, the opportunity for the Board to seek the cooperation of these other districts and to develop and implement a comprehensive urban-suburban student transfer program (*id.* at A274). And the district court has now ordered (App., *infra*, 4a–5a) that "every feasible effort" be made to work out a voluntary plan of pupil exchanges for the 1980–1981 school year to "assist in alleviating the school segregation in the City of St. Louis," that a plan be prepared "for the consolidation or merger and full desegregation of the separate vocational educational programs operated by the Special District of St. Louis County and the school district of the City of St. Louis, for implementation in the 1981–82 school year," and that "a suggested plan of inter-district school desegregation necessary to eradicate the remaining vestiges of government-imposed school segregation in the City of St. Louis and St. Louis County" be developed and

submitted to the court. Hence, petitioners' objection to the court's order is misplaced.[4]

3. Petitioners also contest (Pet. 30–34) the determination that their complaint in intervention was moot in light of intervening changes in the challenged HEW policies concerning magnet schools. These changes occurred after the presentation of evidence at trial had been completed but before the district court rendered its decision. The district court (Pet. App. A142–A143, A223–A224) and the court of appeals (*id.* at A278 n.7) agreed that these intervening events made petitioners' complaint moot.

Petitioners' contention, which was rejected by both lower courts, involves only the application of well-established principles of mootness to the particular facts of this case and raises no issue warranting review by this Court. To the extent petitioners suggest that a case cannot become moot after trial or that a plenary hearing is necessarily required to determine mootness, the claim is insubstantial. Moreover, sound judicial administration dictated that this peripheral issue raised by way of the complaint in intervention not be

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[4]The cases cited by petitioners (Pet. 28–29) do not aid their position. Those cases address the questions whether inter-district relief is available in the absence of an inter-district violation and whether a court *may* order inter-district relief to redress an inter-district violation, but they do not bear on the separate question whether, as petitioner asserts, a court *must* order inter-district relief once an inter-district violation has been found. As discussed above, the question of mandatory inter-district relief is not presented at this stage of the case.

allowed to delay final disposition of the case once the principal matters in dispute had been resolved.[5]

4. Lastly, petitioners argue (Pet. 34–37) that the court of appeals incorrectly applied The Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988) to deny fees to petitioners and to award fees to the prevailing plaintiffs that sought them in the district court.

On the basis of its decision that the St. Louis public schools were unlawfully segregated and that petitioners' complaint in intervention was moot, the court of appeals held that petitioners were not entitled to attorney's fees. The court thus indicated its conclusion, at least implicitly, that petitioners were not a prevailing party as required by 42 U.S.C. 1988. While we acknowledge that "a person may in some circumstances be a 'prevailing party' without having obtained a favorable 'final judgment following a full trial on the merits' " (*Hanrahan* v. *Hampton*, Nos. 79–912, 79–914 (June 2, 1980), slip op. 3, quoting H.R. Rep. No. 94–1558, 94th Cong., 2d Sess. 7 (1976)), the court of appeals' decision stands only for the proposition that petitioners have not prevailed in this case. No legal issue of general importance is presented, and further review is unwarranted.

With respect to the award to the prevailing plaintiffs, the court of appeals ordered that the district court "determine reasonable attorneys' fees for the

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[5] Of course, petitioners remain free, if still dissatisfied, to file a new lawsuit challenging the current policy with respect to magnet schools.

Liddell group (and for the Caldwell group, if they requested them)" (Pet. App. A276). Petitioners' objection that fees were granted to the Caldwell group (including the NAACP) "when it was doubtful whether any had been requested" (Pet. 36) is therefore expressly answered by the court's directive. Furthermore, since the only basis for the district court's denial of fees to the Caldwell group was its adverse decision on the merits of the litigation, and since that decision was reversed on appeal in favor of the Caldwell group's substantive position, it was not error for the court of appeals to order that fees be awarded on remand even though the Caldwell group had not taken a separate appeal from the district court's initial disallowance of attorney's fees.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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JULY 1980

APPENDIX

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

Cause No. 72-100-C (C)

CRATON LIDDELL, ET AL., PLAINTIFFS,

v.

THE BOARD OF EDUCATION OF THE CITY OF ST. LOUIS, MISSOURI, ET AL., DEFENDANTS.

ORDER
[May 21, 1980]

This cause came to be heard pursuant to the remand, opinion, and order of the United States Court of Appeals for the Eighth Circuit handed down on March 3, 1980. After conferences with all counsel and a hearing on the Desegregation Plan filed by the defendant Board of Education of the City of St. Louis on May 2, 1980, and the Court, having considered the positions and objections of the parties, being duly advised in the premises, with findings of fact and conclusions of law to follow, it is hereby:

ORDERED, ADJUDGED AND DECREED that:

1. The defendant Board of Education of the City of St. Louis ("Board") shall not discriminate on the basis of race in the operation of its public schools.

2. The proposed plan of school desegregation submitted by the defendant Board on May 2, 1980, amended on May 8, May 12, and May 15, 1980, is

hereby approved, with the modifications required by this Order, for implementation at the commencement of the 1980-81 school year. The Board is ordered to immediately undertake all steps necessary to the smooth and efficient implementation of the plan and shall operate its schools in accordance with the said Desegregation Plan and the further directions contained in this Order. No changes shall be made in the plan without the prior approval of this Court.

3. The defendant Board is hereby directed to keep the Adams school open and operating during the 1980-81 school year as a grade K-8 school. On or before January 1, 1981, the Board shall prepare and submit to the Court a proposal for the future use of the Adams school which includes a cost analysis for any renovation which may be necessary and an evaluation of the efforts necessary to maintain the Adams school as a stably integrated facility.

4. The Board's desegregation budget, as set forth in the Plan, is approved subject to the requirement that continued efforts be made to reduce the actual costs of implementation, but without impairing the quality of the Plan's components.

5. With respect to that part of the desegregation budget pertaining to pupil transportation costs, the Board and the State defendants are directed to investigate further ways to reduce the actual costs of pupil transportation and report to the Court on these efforts by June 16, 1980, with due regard being given to the safety of the children and the quality of service.

6. The defendant Board is authorized and directed to transfer the sum of $4,668,000 from its debt retire-

ment account to the building and renovation account to be applied to such building modifications as are needed to expand the magnet schools and achieve the conversion to the grade configuration described in the Desegregation Plan.

7. The State of Missouri is ordered to fund one-half of the cost of implementing and operating the Board's Desegregation Plan; in no event shall the State be required to pay more than $11,076,206 which is one-half of the Desegregation budget herein approved by the Court for the school year 1980–1981. In the subsequent years, as long as the Plan remains in effect, the State shall pay one-half of the cost of desegregation, subject to such adjustments as the Court may deem necessary or proper. The sum ordered to be paid herein will include the additional dollars for transportation requested in the Desegregation budget. Payments shall be made in four equal installments at the same time as regular payments. No payment by the State for this purpose shall be made from the school Foundation Program. Any amounts overpaid will be refunded to the State or credited on the next payment. Payment by the State to the Board of Education of the City of St. Louis for the costs of the Desegregation Plan shall be in addition to the payments heretofore made by the State to the said Board, as well as any increase in those sums as the Board would have received absent this Order. The State is directed to report to the Court by July 1, 1980, the amount of funds available and when they will be paid.

8. The defendant Board is applying to the United States Department of Education for funds under

ESAA which will be used to offset the cost of certain components of the Desegregation Plan. The said Department of Education is required and urged to expedite the processing of these applications of the Board in order to assist the Board in complying with the mandate of the Eighth Circuit and the requirement therein stated that the Plan be implemented no later than the beginning of the 1980–81 school year. The Department is requested to report about its action hereunder by July 1, 1980.

9. The defendant Board shall continue the study of the feasibility of curriculum improvements to improve the quality of education throughout the system.

10. The defendant Board shall continue to study and evaluate the compensatory and remedial educational programs described in the Desegregation Plan and shall recommend for approval by the Court such modifications and improvements as will appear advisable and proper to achieve the goals stated by the appellate court.

11. No inter or intra-district permissive transfer shall be permitted which will increase the segregated nature of either the sending or receiving school.

12. The State defendants, the United States, and the St. Louis Board of Education are ordered and directed as follows:

a) To make every feasible effort to work out with the appropriate school districts in the St. Louis County and develop, for 1980–81 implementation, a voluntary, cooperative plan of pupil exchanges which will assist in alleviating the school

segregation in the City of St. Louis, and which also insures that inter-district pupil transfers will not impair the desegregation of the St. Louis school district ordered herein, and submit such plan to the Court for approval by July 1, 1980.

b) To develop and submit to the Court by November 1, 1980, a plan for the consolidation or merger and full desegregation of the separate vocational educational programs operated by the Special District of St. Louis County and the school district of the City of St. Louis, for implementation in the 1981-82 school year.

c) To develop and submit to the Court by November 1, 1980, a suggested plan of inter-district school desegregation necessary to eradicate the remaining vestiges of government-imposed school segregation in the City of St. Louis and St. Louis County.

d) To develop and submit to the Court by November 1, 1980, in conjunction with the Community Development Agency of the City of St. Louis, a suggested plan for insuring that the operation of federally-assisted housing programs in the St. Louis metropolitan area will facilitate the school desegregation ordered herein.

e) To develop and submit a plan to the Court by July 1, 1980, which expands programs and schools so that all the schools in the City of St. Louis may be eligible for Title I funding for the year 1980-81 under Title I of the U.S. Elementary and Secondary Education Act of 1965.

13. The defendant Board shall assign its faculty and staff in accordance with the following provisions:

All principals, teachers, and other certificated staff who work directly with children at a school shall be so assigned that in no case will the racial composition of a staff indicate that a school is intended for black students or white students. Commencing with the 1980–81 school year, and continuing yearly thereafter for the period inclusive of 1984–1985, the Board shall assign the staff described above so that the ratio of black to white teachers in each school, and the ratio of other staff in each, are substantially the same as each such ratio is to the teachers and other staff, respectively, in the entire school system. For the purpose of this provision, "substantially the same" means within plus or minus five percentage points of the respective ratio in the entire school system or two individuals, whichever is more.

The same criteria shall apply to non-certificated personnel.

The Board shall, to the extent necessary to carry out its Desegregation Plan, direct members of its staff, as a condition of continued employment, to accept new assignments.

14. On October 30, 1980, on March 31, 1981, and on the same dates annually thereafter until further order of the Court, the Board shall file with the Court a report setting forth the following information:

(a)(i) The number of students by race enrolled in the school district;

(ii) The number of students by race enrolled in each school of the district;

(iii) The number of students by race enrolled in each classroom in each of the schools in the district as well as the race of the teacher in each such classroom.

(b)(i) The number of full-time teachers by race in the district;

(ii) The number of full-time teachers by race in each school in the district;

(iii) The number of part-time teachers by race in the district;

(iv) The number of part-time teachers by race in each school in the district.

(c) Descriptions of the requests and the results which have accrued, by race, under the majority to the minority transfer provisions which is a part of the Plan.

(d) Statement of the number of permissive transfers granted since the Plan became effective, the race of the students who were granted such transfers, and the school district to which the transfers were allowed.

(e) Brief description of any present or proposed construction or expansion of facilities.

(f) Statement whether the Board has sold or abandoned any school facility, equipment, or supplies having a total value of more than $500.00 since the Plan became effective.

15. All construction of new schools, additions to old schools, closing of existing schools, sales or leases, shall be submitted to this Court with notice given to all

parties, and shall not be carried out without prior approval of this Court.

16. A broadly based Monitoring Committee of citizens residing in the City of St. Louis will be appointed by the Court to assist in the implementation of the Desegregation Plan, providing an ongoing review, reporting all the aspects of the Plan, identifying aspects requiring special attention and making recommendations to the Board with regard to any such matter. The Monitoring Committee will have full access to the Board and to the Court and shall report to the Court on a regular basis.

17. Dr. Gary Orfield, who has assisted so well this Court in connection with the Desegregation Plan, shall continue to assist this Court as its expert with regard to the implementation phase and further will provide assistance to the Monitoring Committee and to the parties particularly in connection with the plan of inter-district cooperation and the development of a vocational program for city and county combined. The expenses and fees for these services shall be paid one-half by the State and one-half by the Board.

18. Defendant Board shall seek the assistance of civic groups, including business, labor, religious, and parents' groups, in informing the community of the essential facets of the Desegregation Plan and enlisting the maximum public support of all sections of the community to insure a smooth and effective operation of the Plan. All persons concerned shall be guided by the consideration that the widest acceptance by the community is essential to the success of the Plan.

19. The Court will not grant any stay of this Order.

20. The Court retains jurisdiction of this action to ensure that the provisions of this Order are effectively being carried out.

Dated this 21st day of May, 1980.

/s/ _____

JAMES H. MEREDITH
United States District Judge

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